

MDR Tracking Number: M5-04-3106-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 18, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening and work hardening each additional hour **were not** medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 12-10-03 to 01-22-04 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 2<sup>nd</sup> day of September 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

August 3, 2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3106-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to

Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ was injured on \_\_\_ while working as a cafeteria worker when she slipped and fell. She presented to the emergency room for treatment and also seen by Concentra. She subsequently sought care with Dr. B and has undergone diagnostic testing including but not limited to plain film x-rays, lab work, ultrasound, electrodiagnostic studies, BAERs test, and functional capacity evaluations. She initiated her care with Dr. B on or about 8-15-2003.

\_\_\_ is required to work as a cafeteria worker and work at a light/medium duty. She underwent various FCE's that initially showed her to be functioning at less than a sedentary level. A 4 week work conditioning program began at the end of October 2003. She was seen by Dr. W and placed at MMI with a 0% impairment rating on 12-01-2003.

\_\_\_ was referred for a work hardening program around the beginning of December 2003. An FCE, psychological and vocational examinations were performed. Numerous treatment notes, diagnostic tests, staffing notes, evaluations and other documentation were reviewed for this file.

#### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of work hardening and work hardening each addition hour from 12-10-2003 through 1-22-2004.

#### DECISION

The reviewer agrees with the previous adverse determination.

## BASIS FOR THE DECISION

The reviewer's decision is based upon the Medical Disability Advisor, 1996 Medical Fee Guidelines specific to Work Hardening, Industrial Rehabilitation – Techniques for Success and Occupational Medicine Practice Guidelines. Specifically, a Work Hardening program should be considered as a goal oriented, highly structured, individualized treatment program. The program should be for persons who are capable of attaining specific employment upon completion of the program and not have any other medical, psychological, or other condition that would prevent the participant from successfully participating in the program. The patient should also have specifically identifiable deficits or limitations in the work environment and have specific job related tasks and goals that the Work Hardening program could address. Generic limitations of strength, range of motion, etc. are not appropriate for Work Hardening.

Although \_\_\_\_ is required to participate in a light/medium duty there is no specific job functions noted that the patient couldn't perform. Work Hardening is designed with specific job simulation duties in mind as opposed to Work Conditioning, which does not necessarily contain real job simulations. Since no specific job task is identified which the patient cannot perform, Work Hardening would not be considered medically necessary. In addition, the patient is currently pain focused and she has moved into a chronic pain pattern in regards to her condition as identified by a referral to a Chronic Pain program. The patient attended four weeks of work conditioning and made minimal improvement and thus the efficacy of a work hardening program would be questionable. Also, there is no notation of psychological factors until the patient is specifically referred to a work hardening program. The treating doctor's records reveal no mood or psychological deficits prior to the psychological assessment to enter into work hardening. The treating doctor's records give no indication of a need for a multidiscipline program with a psychological component. Given that the patient failed the work conditioning program and no psychological component was identified during the patient's initial treatment or work conditioning, work hardening does not provide for a reasonable outcome, see Industrial Rehabilitation – Techniques for Success.

\_\_\_\_ also exceeds the normative data and treatment time periods for a soft tissue injury, see Medical Disability Advisor 4<sup>th</sup> edition. This is not to say that \_\_\_\_ does not need additional care or is not entitled to care, see TLC 408-021, but in this instance work hardening would not be considered medically necessary.

It is also noted in the file that a Designated Doctor placed this patient at MMI with an IR of 0% on 12-01-2003. An impairment rating is performed when a patient reaches maximum medical improvement and it is determined that further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated and the impairment is reasonably presumed to be permanent.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has

made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,